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HELENA ELEMENTARY SCHOOL D. 1 v. STATE

NO. 88-381.

784 P.2d 412 (1990)

HELENA ELEMENTARY SCHOOL DISTRICT NO. 1 and High School District No. 1 of Lewis & Clark County; Billings Elementary School District No. 2 and High School District No. 2 of Yellowstone County; et al., Plaintiffs/Respondents Petitioners for Continuing Supervision, Supervisory Control or Other Appropriate Relief, and Montana Education Association, et al., Intervenor-Plaintiffs/Respondents, v. The STATE of Montana; and The Montana Board of Public Education; and the Montana Superintendent of Public Education, Defendants/Appellants, and C.J. Holje, Bernt Ward and Robert Frederich on Behalf of The Residents and Taxpayers of Sheridan County, Montana, and all others similarly situated, Intervenor-Defendants/Appellants, and Hays-Lodge Pole Elementary School District No. 50 and High School District No. 50, Blaine County; et al. and the Association of Indian Impact Schools of Montana, Intervenor-Defendants/Appellants.

Supreme Court of Montana.

January 4, 1990.

SUPPLEMENT TO AND AMENDMENT OF OPINION

WEBER, Justice.

The Court's opinion in this matter was issued on February 1, 1989. *Helena Elementary School Dist. v. State* (Mont. 1989), [769 P.2d 684](#), 46 St.Rep. 169. We concluded that the holdings should not become immediately effective in order to provide the Legislature with the opportunity to enact an equitable system of school financing. This Court specifically retained jurisdiction. While the Opinion was published at the Court's request, remittitur did not issue.

The Montana Legislature was unable to enact a new law with regard to school funding during the regular 1989 session. A special session was required. On June 30 and July 17, 1989, this Court issued

[784 P.2d 413]

Orders delaying the effective date of the ruling of unconstitutionality and specifically advised that remittitur shall not issue until the specific Order of this Court. Extensive legislation with regard to the funding of Montana public schools was subsequently enacted by the Legislature and approved by the Governor.

Pursuant to the Orders of this Court, the State of Montana and the plaintiff School Districts, by motion or petition, requested clarification and modification of the Court's February 1, 1989, Opinion. The Court has now considered the petitions, briefs, and memoranda, and the oral arguments of the parties. All parties point out that a delay in the effective date of the Opinion is appropriate because of the time necessary in which to implement the provisions of the 1989 laws, and the additional time needed in order to determine whether or not the changes meet the constitutional requirements of our February 1, 1989, Opinion. All parties have agreed that changes in capital funding budgets and other school budgets will not be presented and voted upon until the 1991 Legislative Session. We conclude that the Court possesses the equitable power to postpone the effect of its opinion to allow the legislature and the governor's office time to implement a satisfactory system of school funding in this State. See, *Lee v. State* (1981), 195 Mont. 1, 10-11, [635 P.2d 1282](#), 1287; *cert. denied*, 456 U.S. 1006, 102 S.Ct. 2295, 73 L.Ed.2d 1300 (1982).